

Judge Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOMINGO SANTANA,  
ANDRES VIZCARRA,  
a.k.a. ANDRES VIASCARRA,  
a.k.a. ANDRES VIZCARRA MORENO,  
ADRIAN SANTANA,  
DARIO VILLARREAL and  
MIGUEL GARCIA-HERNANDEZ,

Defendants.

NO. CR06-220 JLR

ORDER CONTINUING TRIAL

This matter having come before the undersigned Court by operation of a joint motion of counsel, except counsel for defendant Adrian Santana, and based on the facts contained in the motion, including the recent substitution of counsel for defendants Domingo Santana and Andres Vizcarra and the pending motion to withdraw by counsel for Adrian Santana, and the Court being fully advised in the matter, now finds that;

The trial was scheduled for December 11, 2006. Acknowledging that new counsel need additional time to review and prepare the case, and that counsel have other cases which are scheduled for trial on various dates in January and February of 2007, counsel ask for a continuance of the trial date until March 27, 2007. Pretrial motions shall be filed by February 23, 2007. The government has no objection to the requested continuance.

1 The Court is aware that time limitations for trial and speedy trial concerns are  
 2 set forth in Title 18, United States Code, Section 3161, which reads in part:

3 (c)(1) In any case in which a plea of not guilty is entered,  
 4 the trial of a defendant charged in an information or  
 indictment with the commission of an offense shall  
 5 commence within seventy days from the filing date (and  
 making public) of the information or indictment, or from the  
 6 date the defendant has appeared before a judicial officer of  
 the court in which such charge is pending, whichever date  
 7 last occurs.

8 \* \* \*

(2) Unless the defendant consents in writing to the contrary, the trial shall  
 9 not commence less than thirty days from the date on which the defendant  
 first appears. . . .

10 Section 3161(h) outlines the periods of excludable time, including:

11 (8)(A) Any period of delay resulting from a continuance  
 12 granted by any judge on his own motion or at the request of  
 the defendant or his counsel or at the request of the attorney  
 13 for the Government, if the judge granted such continuance  
 on the basis of his findings that the ends of justice served by  
 14 taking such action outweigh the best interest of the public  
 and the defendant in a speedy trial. No such period of delay  
 15 resulting from a continuance granted by the court in  
 accordance with this paragraph shall be excludable under  
 16 this subsection unless the court sets forth, in the record of  
 the case, either orally or in writing, its reasons for finding  
 17 that the ends of justice served by the granting of such  
 continuance outweigh the best interests of the public and the  
 18 defendant in a speedy trial.

19 (B) The factors, among others, which a judge shall consider in  
 20 determining whether to grant a continuance under subparagraph (A) of this paragraph  
 in any case are as follows:

21 \* \* \*

22 (ii) Whether . . . it is unreasonable to expect adequate  
 23 preparation for pretrial proceedings or for the trial itself  
 24 within the time limits established by this section.

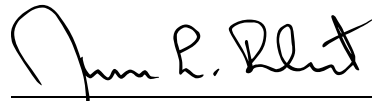
25 \* \* \*

26 (iv) Whether the failure to grant such a continuance in a case  
 27 which, taken as a whole, is not so unusual or so complex as  
 to fall within clause (ii), would deny the defendant  
 28 reasonable time to obtain counsel, would unreasonably deny  
 the defendant or the Government continuity of counsel, or

1 would deny counsel for the defendant or the attorney for the  
2 Government the reasonable time necessary for effective  
3 preparation, taking into account the exercise of due  
4 diligence.

5 In this matter, the Court finds that further time is reasonable and necessary to  
6 address the pending motion to withdraw by one counsel, to allow new defense counsel  
7 adequate time to diligently prepare for trial and, to allow all counsel adequate time on  
8 this matter as well as other trials already scheduled. The Court previously has  
9 examined the charges and determined that the defendants are charged together in two  
10 conspiracies and that no motions to sever are pending. The defendants and charges  
11 appear to be intertwined and should be tried together. Additionally there are no victims  
12 who either object to or would be prejudiced by a continuance. Based on the foregoing,  
13 the Court finds that the ends of justice are served by the requested continuance.  
14 Therefore, the time between December 11, 2006 and March 27, 2007 is excludable  
15 time under Title 18 U.S.C. Section 3161 and the trial in this matter is continued until  
16 March 27, 2007.

17 Dated this 4<sup>th</sup> day of December, 2006.  
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21 JAMES L. ROBART  
22 United States District Judge  
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